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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/823,571	03/29/2001	Henry Tien Lo		6389

7590 10/01/2002

Henry Tien Lo
5010 Indian River Drive
Apt 32
Las Vegas, NV 89103

EXAMINER
COLLINS, DOLORES R

ART UNIT	PAPER NUMBER
3711	

DATE MAILED: 10/01/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

S.M.

Office Action Summary	Application No. 09/823,571	Applicant(s) LO, HENRY TIEN	
	Examiner Dolores R. Collins	Art Unit 3711	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *30 August 2002* .

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-21* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-21* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other:

DETAILED ACTION

Response to Amendment

Examiner acknowledges response by applicant's representative received 8/30/2002. Examiner further acknowledges the corrections/clarifications made to address the issues of the first action.

Examiner acknowledges the amendments made to claims 1-4, 6, 8, 10, 13, and 16-20.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

1. Claims 1- 21 are provisionally rejected under the judicially created doctrine of double patenting over the claims of cop ending Applications Nos. 09/823,569, 09/823,689, 09/823, 570 and 09/823,572. This is a provisional double patenting rejection since the conflicting claims have not yet been patented.

The subject matter claimed in the instant application is fully disclosed in the referenced cop ending applications and would be covered by any patent granted on those cop ending application since the referenced cop ending applications and the instant application are claiming common subject matter, as follows: A Card Game among a plurality of players and a Banker utilizing the same means and procedures.

Although each Application does not teach the limitations of the aforementioned claims exactly, it would have been obvious to claim the alternative embodiments at the time since the adjustments to include these forms would have been minor.

This is a provisional obviousness-type double patenting rejection.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Webb in view of Kadlic and further in view of Lo

Webb discloses a Method For Playing Double Hand Card Games.

Regarding claims 1, 2 & 4-20

Webb teaches:

- a card game with a plurality of players (see abstract);
- providing and shuffling at least one standard poker deck of cards and at least one joker (see abstract);
- each player placing at least one bet (see abstract and claim 2);
- dealing six card hands to player and dealer (claim 1);

and

- resolving games and wagers (claims 16 & 17)

Webb fails to explicitly teach that cards are discarded.

Kadlic discloses the game American Canasta. His game teaches cards being discarded.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the game of Webb to include the discarding of unwanted cards in order to provide additional opportunities for the players.

Both Webb and Kadlic fail to teach wagers being placed on specified bets.

Lo discloses Card Game. His game teaches the limitation that both Webb and Kadlic fail to teach, i.e., wagers being placed on specified bets.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to add this feature to the modified game of Webb in order to add excitement to the game for the players.

Additionally, Webb teaches predetermined winning tables and payoff amounts. Webb, however, fails to teach the identical predetermined schedules as outlined in the limitations of claims 4-21.

Predetermined winning tables of outcomes and payoff amounts are well known in the art. It would be an obvious matter of design choice to make the predetermined tables/schedules as desired.

Regarding claims 3 & 21

Webb teaches:

- the use of a standard pack plus wild indicia, which could be jokers (see abstract and col. 3, lines 41-43).

Webb fails to explicitly teach a specific number of jokers as wild card.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to duplicate the number of jokers available used since a wild indicia is required for each player and the dealer in this game. A mere duplication would present little or no difficulty to one of ordinary skill in the art.

Response to Arguments

Applicant's arguments filed 8/30/2002 have been fully considered but they are not persuasive. Applicant has amended claims 1-4, 6, 8, 10, 13 and 16-20 to include recitations of predetermined outcomes. Webb teaches predetermined winning tables and payoff amounts. Webb, however, fails to teach the identical predetermined schedules as outlined in the limitations of applicant's claims.

Predetermined winning tables of outcomes and payoff amounts are well known in the art. It would be an obvious matter of design choice to make the predetermined tables/schedules as desired.

Webb teaches at least one joker. This indicates that his game may have two jokers.

Additionally, regarding independent claim 1, by applicants own admission (see applicant's comparison table on page 11 of the response) there is no difference between applicant's invention and the cited reference (Webb).

On page 7 (last paragraph) of applicant's response, applicant indicates that claims 1-20 are pending in this application. Applicant has however failed to cancel claim 21. Claims 1-21 are therefore pending in this application.

The limitations of applicant's invention, as claimed, do not seem to overcome the cited references.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Wisted (415) & (524), Goldman, Miller, Marquez, English, Breeding and Scott et al. are cited to show the state of art with respect to features of the claimed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ***Dolores R. Collins*** whose telephone number is ***(703) 308-8352***. The examiner can normally be reached on 9:00 A.M. - 5:30 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ***PAUL SEWELL*** can be reached on ***(703) 308-2126***. The fax phone

numbers for the organization where this application or proceeding is assigned are ***(703) 305-3579*** for regular communications and ***(703) 305-3579*** for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is ***(703) 308-1148***.

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September 24, 2002

Benjamin H. Layno
Primary Examiner